

J. B. NEATHERY & Co.

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Telegraphic News.

[REPORTS OF THE PRESS ASSOCIATION.]

Entered according to act of Congress, in the year 1863, by J. B. NEATHERY, in the Clerk's Office of the District Court of the Confederate States of the Northern District of Georgia.

From Goldsboro.

Goldsboro, Nov. 1. A special dispatch to the *State Journal* from near Plymouth the 31st ult., via Rocky Mount, the 1st says: After three days' hard fighting the enemy passed up Middle river, and came down the Roanoke this morning. Gen. Baker commanded the garrison in person, and fought until the enemy's gunboats had passed one by one and dismounted all our guns in the other. An evacuation was then ordered under a severe shelling, which was effected without much loss. Col. Whitford acted with conspicuous bravery.

[Middle river we suppose is what is known in that section as the Roanoke. It is a channel leading off from the Roanoke river about two miles above Plymouth, running some distance from the main channel, and emptying into the sound; and is navigable for good class vessels.—Eus. CONSERVATIVE.]

From Petersburg.

Petersburg, Nov. 1. All quiet. Negroes are coming in every day to act as drivers laborers.

The Wagons mentioned by Grant as being captured near Burgess Mill was private and not government property. Their contents were left on the road side. They were used to haul off wounded and dead.

From Tennessee.

Paris, Tenn., Oct. 30, via Corinth, Oct. 31. Major General Forrest has the Tennessee river blockaded. He captured at Fort Harrison yesterday a transport which had in tow one large barge. The boiler was cut in two the second fire. The boats drifted down on the opposite side and were brought over by ropes. We got off sixty wagon loads of shoes, boots, blankets and hard bread.

Gunboats came up and shelled. The transport and barge were destroyed, but the goods on shore were saved. Five transport and one gunboat are above Forrest's batteries.

The enemy are moving everything from Paducah across the river. They have been running five transports per day up to Johnsonville heavily loaded with supplies.

From Wilmington.

Wilmington, Nov. 1. The *Journal* has received Bermuda advices of the 12th and 19th ult., containing the trial and release of acting master J. C. Braine, Confederate States Navy and associates, for the burning of steamer Roanoke. They were released on the 12th and set at liberty, the charges against them having been withdrawn by the Attorney General.

From Mobile.

Mobile, Nov. 1. A special dispatch to the *Advertiser* from Senator 31st St. Louis papers of the 26th says: Price was reported twenty miles south of Kansas City fighting. The material losses on both sides amount to no great consequence. It is supposed that the main body of Price's army has not yet been engaged.

The St. Louis *Republican* says but little reliance can be placed on anything coming from Blount and Lane.

A special to the *Democrat* from Warrensburg, on the 21st, says that Price was making his way through Kansas, Smith following. The latest news places him beyond the State line with plunder, causing much murmuring. Pleasanton has reported the Federal loss at 300 at Kansas City. He claims 3,000 prisoners.

From the North.

Richmond, Nov. 1. The Washington *Chronicle* has been received. It contains a St. Louis telegram of the 29th which states that accounts put Price near Cardage, still skulking with our cavalry in full pursuit. Pleasanton has been slightly wounded by a fall from his horse. Official dispatches from St. Joseph's say Bill Anderson and seven of his men were killed on the 27th.

Gov. Bradford has issued his proclamation announcing the adoption of the new free State Constitution of Maryland. The Court of Appeals offered the decision of J. T. Martin refusing to grant mandamus to retain the soldiers' vote.

A telegram from Knoxville says Vaughan's command was routed at Morristown, on the 28th, by Gen. Gilliam, with the loss of 167 prisoners and six guns. McClung's battery was captured entire. The rebel killed and wounded were left on the field.

A telegram from Louisville of the 29th says an attack on Paducah by Forrest was expected. All business was suspended and goods moved to a place of safety.

Proceedings in the case of the Vermont raiders were transferred to Montreal and the prisoners removed to that place.

Great excitement has been produced in the United States by the alleged discovery of election frauds on the part of the New York State Agency. Seymour has sent three commissioners to Washington to investigate the charges.

Gold 219.

European News.

Richmond, Nov. 1. European advices to the 20th have been received. Political news unimportant.

Commercial failures in England continue. Twenty Liverpool firms have failed.

The Duke of New Castle is dead.

A commercial panic occurred in Rio Janeiro. Four banks suspended payment.

Consols closed on the 20th at eighty-eight and a half for money.

"A pair of scales before him a rich man sat and weighed,
 A piece of gold—a widow's all, and unto her he said:
 "Your coin is not the proper weight, so take it back again,
 Or sell it me for half its worth; it lacks a single grain,"

With fearful eyes the widow said: "Oh! weigh it, sir, once more;
 I pray you be not so exact, or drive me from your door."

"Why! see yourself, it's under weight! your tears are of no avail."
 The second time he tries it, it bears down the scale;
 But little guessed that rich man, who held his gold so dear,
 That the extra weight which bore it down had been the widow's tear."

We read in a Sheffield paper that "the last polish to a piece of cutlery is given by the hand of woman. The same may be said of human cutlery, that 'the last polish to a young blade' is given by his mixing with female society."

DAILY CONSERVATIVE.

Vol. I.]

RALEIGH, N. C., WEDNESDAY, NOVEMBER 2, 1864.

[No. 166.]

SUPREME COURT DECISION.

We are indebted to His Honor, Chief Justice Pearson, for the following able opinion in the case of Kesler:

KESLER vs. BRAWLEY.

"From and after the passage of this act, all white men residents of the Confederate States, between the ages of seventeen and fifty, shall be in the military service of the Confederate States, for the war."—Act 17th February, 1864, Sec. 1.

One of two constructions must be adopted. 1st. It applies to individuals, who are at the date of the passage of the act between the ages of seventeen and fifty, as "descriptio personarum"—the same in legal effect as if the persons answering the description were named, and put them in the military service for (that is during) the war. This meaning can be given by adding the words, "who are now," so as to make it read, "all white men residents of the Confederate States, who are now between the ages of seventeen and fifty, shall be in the military service of the Confederate States, for (that is during) the war." "This act shall take effect from and after its passage."

According to this construction, all white men who are, at the date of the passage of the act, under the age of fifty, would be liable to military service during the war, notwithstanding their afterwards arrive at that age, because they are embraced by the description, and all white men who are, at the date of the passage of the act, under the age of seventeen, would not be liable to military service, because they do not answer the description. So, if this construction be adopted and judgment is thereupon rendered against the petitioner, the Courts and Judges will be bound, as a matter of course, upon the authority of this decision to discharge every one who has been, or may be, put in the military service, who was not, at the passage of the act, seventeen years of age.

There are two fatal objections to this construction. 1st. In order to express the meaning, it is necessary to add words which are not found in the act, and the addition of which varies the sense materially. This is not authorized by any rule of construction. 2d. According to the whole scope and tenor of the act, one of its main objects is to bring into the military service the young men, who are continuously arriving at the age of seventeen, and the purpose is not only to embrace those who are seventeen at the passage of the act, but all who shall thereafter arrive at that age, which purpose would be defeated by this construction; and it can only be contended for on the ground of an oversight, or "casus omissus," in framing the act, which, in so material a matter, the court is not at liberty to assume.

The second construction is, that the section applies to a class, composed of all white men between the ages of seventeen and fifty, without regard to the time when they may be between those ages, and puts them into military service as a class for (that is during) the war. This meaning can be given simply by changing the position of the words "for the war," so as to make the section read, "For (that is during) the war, all white men residents of the Confederate States, between the ages of seventeen and fifty, shall be in the military service of the Confederate States." "This act shall take effect from and after its passage." The court is authorized by a well settled rule of construction to change the position of words.—See "Devaynes on Statutes." Indeed this change in the position of words, in this instance, is only for the purpose of making the sense clearer. For, if persons are conscripted as a class, it follows of course that they cease to be liable when they pass out of the class, and become liable when they enter the class, when no time is fixed, at which they are to be between the ages designated, the conscription is necessarily as a class. The distinction being where a time is fixed, the conscription is as individuals, "descriptio personarum"—where no time is fixed, the conscription is as a class, and that consequence follows without reference to the position of the words, "for (that is during) the war," although it makes the sense clearer to put the words at the beginning of the section, instead of at the end.

"For the war" is evidently used in the sense of "during the war," and conceding that the conscription is by a class, if the words, "for (that is during) the war," had been placed at the beginning of the section, the fact that a "senior reserve" would not be liable after arriving at the age of fifty, is too plain for discussion, and it would be strange if the result can be different, from the circumstance that the words, "for (that is during) the war," happen to be at the end of the section. These words have no reference to the term of service, that is fixed by conscripting as a class, and the words are manifestly used to enact that the extended conscription of all between the ages of seventeen and fifty, should continue to be in force during the war.

According to this construction, all persons under the age of seventeen, from time to time, on arriving at that age enter into the class and are liable to military service, and all persons under the age of fifty, from time to time, on arriving at that age, pass out of the class and are no longer liable to military service—the rule working both ways, unless some provision be made to the contrary.

It may be objected to this construction that it lets out of the military service all who arrive at the age of fifty. The reply is, there is nothing in the act tending to show that it was not the intention to let men, who were over forty-five when conscripted, go out of the service on arriving at the age of fifty; and there is no reason to suppose such was the intention on the idea that heads of families, after arriving at the age of fifty, would be of more use to the country at home, than if they are kept in the military service as "senior reserves." But assume this not to be so, and that this construction also implies a "casus omissus," how does it compare with the "casus omissus" implied by the first construction? This lets out of the "senior reserves" a few old men, comparatively speaking, while that fails to take in a large body of young men, who are looked to as the main resource of the country for future military operations in the regular army! By

reference to the census statistics, the number of young men arriving at the age of seventeen, in the course of a year, in proportion to old men arriving at the age of fifty, is about fifteen to one. From this, it may be seen how much the public service will lose by adopting the first construction and rejecting the second; and, of course, if a "casus omissus" is to be implied in both constructions, that should be supposed which is of the least consequence, and is the most likely to have occurred. The court is of opinion that the second is the proper construction.

A perusal of the whole act will tend to support this conclusion. Mr. Winston, who argued for the government, referred to the 5th section, as tending to support the first construction. It seems to me that this section sustains the conclusion to which we have arrived. The provision, that persons failing to enrol themselves at the time required, "shall be placed in the service in the field for the war in the same manner as though they were between the ages of eighteen and forty-five," is imposed as a penalty on such as are recalcitrant, in respect to whom the term of service is fixed, and excludes the idea of a general liability of all to serve for the war. The suggestion of the learned counsel that the proviso in this section, that the persons mentioned shall constitute a reserve for State defence, &c., should be modified by adding the words, "except those who fail to enrol themselves," has nothing to support it.

Our conclusion is also confirmed by reference to the other conscription act. The act, April, 1862, conscripts, as a class those between the ages of eighteen and thirty-five for three years or the war. The act, September, 1862, conscripts, as a class, those between eighteen and forty-five for three years or the war, and the effect of passing out of the class, to relieve from further liability to service is prevented by a proviso, "when once enrolled all persons between the ages of eighteen and forty-five shall serve the full time." This proviso was necessary to show an intention, that although the conscription was as a class, still, in respect to persons who should, after being enrolled, arrive at the age of forty-five, it was deemed expedient to retain them in service for the full time. The act under consideration, in like manner, conscripts "for (that is during) the war," as a class, those between the ages of seventeen and fifty, and there is no proviso to continue in the service those who arrive at the age of fifty and pass out of the class. Whether a proviso to prevent this effect was left out on purpose, because it was not deemed expedient to keep "senior reserves" in service, after they become fifty years of age, or was an oversight, we have no means of deciding. Our duty is to expound the law according to the sense of the words used by the law-makers, and in the absence of a proviso to the contrary, it follows as of course that when a "senior reserve" arrives at the age of fifty, he passes out of the class, and is no longer liable to military service.

There is no error in the judgment rendered below. Judgment for the petitioner.

R. M. PEARSON.

100 NEGRO MEN WANTED
 TO HIRE FOR THE YEAR 1865 TO WORK IN A safe locality. Address GEO. WASHINGTON, Sapon Iron Works, Chatham County, N. C. 165-1m.

S. T. WILDER,
 Auction and Commission Merchant,
 LOUISBURG, N. C.

Will make sales of real estate or personal property, merchandise, provisions, flour, grain, salt, &c., and solicits consignments. Frankfort is the nearest depot.
 Oct. 31, 1864. 164-2m.

ORPHAN ENDOWMENT FUND.
 CONTRIBUTIONS TO THIS FUND MAY BE MADE TO Geo. W. Mordcau, Jan. G. Williams and W. H. Jones, Cashiers.
 Raleigh, Oct. 29, 1864. 163-4f.

BOXES FOR SOLDIERS.
 ALL BOXES FOR SOLDIERS OR PRISONERS OF War from North Carolina, delivered to the following named persons will be promptly forwarded free of charge:
 Sprague Brothers, Salisbury.
 Dr. W. A. Collett, Morganton.
 Dr. J. W. Allison, Statesville.
 Dr. J. L. Neagle, Greensboro.
 Mr. A. Hagan, Charlotte.
 Mr. Edward Hogg, Salona.
 Capt. J. N. McDowell, Raleigh.
 Joseph A. Worth, Fayetteville.
 E. Murray & Co., Wilmington.
 Mr. F. L. Bond, Tarboro.
 Mr. J. J. Askew, Colerain.
 Mr. F. L. Roberts, Murfreesboro.

The Boxes should be well hooped, properly marked, and delivered in time for my Special Messenger who leaves Raleigh on the first day of every month.

SUPREME COURT REPORTS.
 THE REPORTS OF CASES AT LAW, ARGUED and Determined in the Supreme Court of N. C., June Term 1864, No. 2, Vol. 1. Equity Cases, No. 1, Vol. 1, reported by P. H. Winston, Esq. Price of Vol. 1, \$12.50, Vol. II, \$7.50. Orders solicited from the Profession. Those who have already ordered from Mr. W., will remit payment to the subscriber.

Raleigh, Oct. 28, 1864. A. R. RAVEN, Agt. 161-

Sorghum Mills and Boilers.
 JUST RECEIVED FROM SAPONA IRON WORKS, AN- other supply of two and three Roller Mills and Boilers from 20 to 100 gallons. Kept constantly on hand a large supply of Ovens, Spiders, and extra Lids.
 August 12th, 1864. JAMES M. TOWLES, Agt. for Sapon Iron Works. 97-1f.

JOHN G. WILLIAMS & Co.,
 STOCK AND MONEY BROKERS,
 Raleigh, N. C.

CONTINUES TO CARRY ON THE BROKERAGE BUSINESS at their old stand as heretofore in all its various branches.

FOR RENT.
 I WILL RENT THE HOUSE NOW OCCUPIED BY me for some time kept up as a Hotel. Containing 12 rooms independent of the Dining Room 24x36 feet. The building will be rented with or without the furniture. Possession given immediately if desired.
 October 25, 1864. GEO. T. COOKE. 159-1w.

TO GAS CONSUMERS.
 ON AND AFTER THE 1ST OF NOVEMBER THE price of Gas will be \$60 per thousand feet. At the present price of rosin, freights and iron, it costs the Company \$67.50 per thousand feet to make it.
 WATERHOUSE & BOWES. 160-4N.

Executive Department North Carolina,
 ADJUTANT GENERAL'S OFFICE,
 Raleigh, July 1, 1864.

GENERAL ORDERS,
 No. 16.

FOR THE INFORMATION OF ALL CONCERNED. It is declared that the Guard for Home Defence consists of all white male persons who are exempt by law from service in the Confederate Army, between the ages of eighteen and fifty years, residents in the State, including foreigners not naturalized who have been resident in the State for thirty days, before enrollment, excepting such persons as are exempt by the laws of the State, by orders of the Governor, or on account of physical disability.

Company commanders will each on the next drill day make an exact roll of his company in accordance with the above declaration and transmit the same to his Battalion commander to be sent by him without delay to this office. Upon the receipt of these company rolls, Battalion commanders having arms and accoutrements the property of the State in their possession or the possession of their men, after retaining a gun and accoutrements for each man of his command will send the remainder to this city to Maj. T. D. Hogg, Ordnance Officer.

The second paragraph of General Orders No. 9, making it the duty of all Militia and Home Guard officers to arrest any officer or agent who in making impressions fails to comply with the impressing laws in every particular is hereby so modified as to make it the duty of all such officers to call out their commands to assist in arresting any person against whom a civil warrant is directed upon application of any Judge or Justice of the Peace stating that the civil officer is unable to make the arrest without aid from the militia. It being thus made the duty of all Militia and Home Guard officers to assist the civil authority in suppressing illegal impressions, it is hereby forborne officers of either class to become impressing agents, and those holding such agencies must resign either the agency or commission in the State service. Commanders of Regiments and Battalions will see that this latter clause is complied with.

By order of Governor VANCE, R. C. GATLIN, Adjutant General.

Executive Department North Carolina,
 ADJUTANT GENERAL'S OFFICE,
 Raleigh, September 6, 1864.

GENERAL ORDERS,
 No. 19.

THE PRACTICE WHICH HAS PREVAILED TO some extent among officers of the Militia and Guard for Home Defence of granting temporary furloughs to deserters, who have been apprehended or who have voluntarily surrendered themselves, must be discontinued. They are strictly forbidden to grant furloughs to any persons not members of their commands.

By order of Governor VANCE: R. C. GATLIN, Adjutant General.

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Executive Department North Carolina,
 ADJUTANT GENERAL'S OFFICE,
 Raleigh, September 6, 1864.

GENERAL ORDERS,
 No. 19.

ADVERTISING RATES.

The following rates will be charged for all advertisements inserted in the DAILY and WEEKLY CONSERVATIVE:—
 ONE SQUARE OF EIGHT LINES OR LESS
 One day, \$3.00 One week, \$18.00
 Two days, 6.00 Two weeks, 36.00
 Three days, 9.00 Three weeks, 54.00
 Four days, 12.00 One month, 72.00
 Five days, 15.00 Two months, 144.00
 Fifty words, or eight lines or less count a square, and additional squares will be charged the same. Advertisements inserted once, twice or three times a week will be charged \$4 a square for every insertion.
 When sent by letter, the money must accompany the advertisement. Objections, rejections and other notices charged as advertisements and must be paid in advance.

Executive Department North Carolina,
 ADJUTANT GENERAL'S OFFICE, (H. G.)
 Raleigh, December 16, 1863.

GENERAL ORDER, No. 6.
 I. The following acts of the General Assembly of North Carolina are published for the information of all concerned: AN ACT IN RELATION TO THE MILITIA, AND A GUARD FOR HOME DEFENCE.

SECTION 1. Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That the exemptions from service in the Militia of the State shall be the same as those, and to the same extent, and no further, than are prescribed in the acts of Congress of the Confederate States, providing for the enrolment of men for the public defence, and granting exemptions from the same, commonly called the conscription and exemption acts.

SECTION 2. Be it further enacted, That if shall be the duty of the Governor to cause to be enrolled as a Guard for Home Defence, all white male persons not already enrolled in the service of the Confederate States, between the ages of eighteen and fifty years, resident in this State, including foreigners not naturalized, who have been resident in the State for thirty days before such enrolment, excepting persons filling the offices of Governor, Judges of the Supreme and Superior Courts of Law and Equity, the members of the General Assembly, and the officers of the several departments of the Government, members of Congress and the civil and military officers of the Confederate government within this State, ministers of the gospel of the several denominations in the State charged with the duties of such ministry, the high sheriff and clerks of the several courts of record, and the public registers in the several counties, and such other persons as the Governor, for special reasons, may deem proper subjects of exemption.

DAILY CONSERVATIVE.

RALEIGH, N. C., NOVEMBER 2, 1864.

J. B. NEATHERY & Co.

THE TRUE CONSERVATIVE PLATFORM.—The supremacy of the civil over military law.

A quiet submission to all laws, whether good or bad, while they remain upon our statute books.

No reconstruction, or submission, but perpetual independence.

An unbroken front to the common enemy; but timely and repeated negotiations for peace by the proper authorities.

No compromise with the rebels, no concession, no counter-revolution; no combined resistance to the government.

Opposition to despotism in every form, and the preservation of Republican institutions in all their purity.

PROPER RESPECT FOR THE DECISIONS OF THE JUDICIARY when made in due form of law, has always been regarded in all free countries as a test or mark of civilization, and of the superior force of law and order.

In opposition to licentiousness, upon well regulated society. A community, a posse, or an individual can give no higher proof of the reign of demoralization, than is exhibited, when the civil law is disregarded and the decisions of the Courts are set at naught.

There are times however, when a nation is invaded or insurrection prevails, and when the power of martial law becomes necessary in an emergency, that the civil law may be adjourned over, not ignored, for the want of time, and when the exigencies of the case require it for the public safety.

But we contend that even in such cases, the same principles which control in the execution of the civil law, must be regarded in the enforcement of martial law, and equally so when the code enforced is purely military.

We can conceive of no possible exigency, under the rule of military power, among a civilized people, when the principles of the civil law may be ignored, and the divine code of equity and justice disregarded.

The older nations of Europe boast of their superior refinement, literature and civilization, but let this be the boast of the freemen of the Confederacy, that the principles of law and the requisitions of an orderly government rule us.

Our people have always manifested this reverence for the law, and the official decisions of the Judiciary, have thus far operated as a re-enactment and confirmation of the law.

The decision of Judge Battle in the case which we published on yesterday, although the public has manifested but little interest in it, contains doctrines which we consider cardinal and of the highest importance to the people and the cause.

We ventured a few days ago to express an opinion in opposition to the right of Congress to instruct the States or to specify the persons, whom they shall employ in their service.

That body had so far entrenched upon the States in some of its encroachments, as to authorize the Governors of the States to designate who were necessary to the State service.

Some of the members of the late Legislature were anxious that the matter of exemption for State service, should be left wholly to the discretion of Gov. Vance.

This responsibility Gov. Vance steadily refused to assume, and would not consent that it should be imposed on him.

In that he exhibited his usual sagacity, and his reverence for the constitution and the laws, and the rights of the State.

We are glad to find our position so strongly sustained by Judge Battle in his opinion yesterday published, and by Chief Justice Pearson, in his concurrent opinion on the same case, and by the Supreme Court of Appeals in Virginia.

That learned Court says: "The State governments are an essential part of our political system; for upon the separate and independent sovereignty of the States, the foundation of our confederation rests.

All powers not delegated to the Confederate States by the Constitution, nor prohibited to it by the States, are reserved to the States respectively or to the people thereof; and the Confederate States guarantee to each State a republican form of government.

It is absurd to suppose that the government of the Confederate States can rightfully destroy the States which created it; and all the powers conferred on it must be understood to have been given with the limitation that in executing them nothing shall be done to interfere with the independent exercise of its sovereign powers by each State.

Congress can have no right, therefore, to deprive a State of the services of any officer necessary to the action of its government. And the State itself is the sole judge as to the officers that are necessary for that purpose.

His Honor Judge Battle after a careful review of the law in the case, meets the question directly, in the following clear and forcible manner:

"Has the Legislature of the State the right 'to demand' these exemptions? It is very decidedly our opinion that it has, and that it has it to the exclusion of every other department of the State government. It is clear beyond all question, that within the limits of the written Constitution, which the people of the State have imposed upon the government, the legislative power is the supreme power in the State.

Among its vast powers of legislation, which are unlimited and unrestricted except by the Constitution, is that of ascertaining what officers, in addition to those specified in the Constitution, are necessary for the efficient management of the affairs of the State, and the appointing of the officers and prescribing their duties.

The powers of the other two great departments of government are very different. To the Judiciary is assigned the power of expounding the constitutional laws, while the executive has solely the power to enforce their faithful execution.

From this it seems to us to follow as a logical sequence, that it is shown that each State is the sole judge as to the officers that are necessary to the action of its government, its Legislature, and its Legislature, alone is the organ by which its judgment is to be ascertained and made known.

Equally clear and forcible is the concurrent opinion of His Honor, Chief Justice Pearson, as published in another column.

Upon the Legislature, therefore, rests the sole duty and responsibility of defining who shall be exempt from the military service of the Confederacy, because it is the proper judge of what the State needs, for the exercise of its legitimate power, its preservation and defence.

Were the power lodged in the general government, the States who created it would be at its mercy, to be controlled or crushed as that government might determine.

PLYMOUTH IT APPEARS is again in the possession of the enemy. The particulars will be seen in our news columns. We regret this much, as it furnishes the enemy with another good base from which to annoy us.

The fact looks as if those who were responsible for the protection of the place were not as vigilant as they should have been.

The proceedings of the Mutual Relief Association will appear to-morrow; they are necessarily postponed on account of the late hour we received them.

Wake County Bonds sold at auction last Saturday for 132.

THE OUTRAGES AND ENORMITIES of deserters and recusant conscripts in this State are becoming beyond endurance.

Every week we hear of some outrage committed by them. Notwithstanding the efforts of the government, both in the exercise of clemency and vigilant rigor, these enormities are being committed.

The press has been too silent upon this subject. Even those, who are horrified at every instance of departure from the law in act or temper, on the part of these whose duty it is to arrest deserters and their abettors, and who are so ready to cry out, when any of our officers transcend the bounds of prudence and law, against the Executive of the State, who it is well known eschews everything like inhumanity in the execution of the law, are strangely silent upon these enormities.

We learn, that within the past two weeks these depredations on the part of deserters, have if possible, become more enormous than before.

Deserters in the county of Wilkes committed rape upon two of the daughters of Mr. Michael Williams a short time since, under the most aggravating circumstances—Capt. Davis a most excellent and vigilant Home Guard officer was killed a few days ago—Messrs. James and Peter Eller, Mr. McNeil and others have been robbed.

In Alleghany County, two men were killed by them—in Forsyth another has been ruthlessly slain—in Henderson County Mrs. Col. Bryson was killed and her two daughters shot.

These are only a few of the enormities committed. Should our people submit to this? Should Gov. Vance relax in his efforts to arrest this state of things, because a few State officers, are not easily restrained under such circumstances from violent and severe treatment of suspected persons?

We will not under any circumstances counsel disobedience to the law or its enforcement, but does not the outrages which are being daily committed in the State, often upon unoffending females, call for the most vigorous enforcement of the law, both upon the deserters and those who aid and abet them? It is time the whole State was aroused.

Every citizen owes it to the State, to society and to himself, to give information, and to aid in arresting these lawless men. They must be put down by the strong arm of force and that immediately.

Every person against whom there is evidence that they are harboring or abetting them, should be arrested and punished to the extent of the law.

Let the militia and home guards who are at home, and all good citizens resolve to put them down or drive them from the State.

It is rumored about town we learn, that several persons who were about to be made liable to conscription or to be sent off in the Home Guard, have disappeared, and the presumption is they have gone to the Yankees.

It appears also that a number have run off from Randolph, Guilford, Davidson and Forsyth who were liable to Home Guard duty.

We have had quite enough of this thing. It is high time that those who are among us who are not willing to discharge the duties of honest, patriotic citizens should be known and sent off at once.

No such person is entitled to the privileges of citizenship any longer. Men who declare they will not support the government and the cause at this late period, have remained among us purely for sinister or some ulterior purpose, and the sooner we get rid of them the better.

If such men are filling offices or are in positions which exempt them from service, they should be dismissed. There are good reasons why many citizens may prefer to remain out of the army, but the man who does so because he is a greater friend to the enemy than he is to his State, ought not to stay among us.

We were indebted on yesterday to the Progress for Judge Battle's opinion, and to day for the following opinion of Chief Justice Pearson:

CONCURRENCE OF CHIEF JUSTICE R. M. PEARSON IN THE CASE OF JOHNSON vs. MARLETT.

I concur fully in the decision in this case, for these reasons:

1st. What officers are necessary and proper for the administration of the Government is a matter confided to the wisdom of the Legislature by the Constitution of the State, except in respect to the officers created or recognized by that instrument itself.

Whenever the Legislature creates and fills an office, or authorizes a county or municipal corporation to do so, it is to be taken conclusively as a "presumption of law" that such office is necessary and proper, for, otherwise, the folly of creating and continuing a useless office is imposed to the Legislature.

2d. The Governor, members of the Legislature, Judges and other officers of the State, are not liable to conscription, by the force and effect of the Constitution and of our form of government, and stand in no need of exemption either by an act of Congress or the certificate and claim of the Governor, or an act of the Legislature.

For the power to conscript is restricted by the condition that it does not include officers of the States, otherwise, the exigencies of the war would be made to depend on the will of the Legislature.

So that part of the act of Congress which enumerated among the persons exempted, "The members of the several State Legislatures, and such other State officers as the Governors of the respective States may certify to be necessary for the proper administration of the State governments"—act 17 Feb. 1862, sec. 10, clause 2, is a matter of supererogation.

The certificate of the Governor therein required has no legal effect, and the resolution of the Legislature, which demands the exemption of State officers, is in effect a protest by that body against the right asserted on the part of Congress to conscript officers of the State by enacting them, among the persons whom in its wisdom it is deemed expedient to exempt.

R. M. PEARSON.

The Mercury and the Southern Field & Fireside have been united into one, W. B. Smith & Co., having purchased the latter. The interests of the two papers being consolidated, only one paper will be issued hereafter, and will take the name of the Southern Field & Fireside.

The first number under the new arrangement will be issued in this city next Friday. We wish the proprietors much success in the enterprise.

WE LEARN THAT Mr. Hinton Franklin who was severely wounded in a fight with Mr. James Penny, a few days ago, has since died. Mr. P. will be committed for trial or bailed until the next Superior Court.

We learn that the evidence obtained by the Coroner would not convict Penny of murder in the first degree.

NEW ADVERTISEMENTS.

Attention is called to the advertisements of Capt. W. E. Pierce, Post Quartermaster; E. A. Whitaker's groceries; W. H. Jones, Bonds wanted; Tucker, Andrews & Co's. files, snuff and lye.

DARING ATTEMPT TO DESTROY THE "ALBEMARLE."

On Thursday night last, or rather about 2 o'clock on the morning of Friday last, a daring attempt was made by a party of eleven officers of the Yankee navy to blow up the torpedoed, the iron-clad ram Albemarle, at Plymouth, and to some extent the attempt was successful.

We are not in possession of what we consider the authentic details, but the following seem to be the facts:

The Albemarle was moored near the wharf, a gangway connecting her with the shore. Some distance down the river, in the stream, lay the hull of the Southfield, sunk there by Capt. Cook when Plymouth was captured from the Yankees. The Southfield was used as a picket station by our infantry forces, to which they passed to and from the shore by a boat, and this boat was usually kept at the Southfield.

Thursday night was very dark and stormy. In the darkness and storm, at the hour stated, the Yankee expedition surprised it, is said, the Southfield picket station and captured all the pickets, twenty-five in number, without firing a gun, and sent them down the river to the fleet below in their own boat.

The vessel used for the Yankee expedition was a long low steamer, or torpedo boat, propelled by steam or by muffled oars. Having disposed of the pickets quietly, the Yankees crossed to the side of the river opposite to Plymouth, and sweeping round, came upon the Albemarle from up the stream.

Our informant, who says he was on the Albemarle at the time, is a visitor, and was somewhat injured by the explosion of the torpedo, says that in consequence of the darkness and the noise of the storm, the watch on the Albemarle knew nothing of the approach of the enemy till she was close upon them.

The boat was hailed "What boat is that?" The reply was, "The Albemarle's boat," and at this moment the Albemarle was struck by the Yankee boat, on the starboard quarter. In this attempt, it is thought the Yankees failed to blow up the Albemarle through a defect in the torpedo.

They immediately swung round their boat again and were coming down upon the Albemarle's bow, when they were again asked, "What boat is that?" The reply was, "You will find soon," and on the instant the Albemarle was struck and the torpedo exploded.

By this time the alarm was general throughout the ship, and the men rushed to arms and made for the outside of the armor, when they were met by one or two volleys of grape from a howitzer in the Yankee boat.

The Albemarle's men commenced a rapid fire all around the ship, but they could see nothing of the enemy in consequence of the darkness. It was soon, now, ascertained that the torpedo had had the intended effect, for one of the bows of the Albemarle was stove in and she was rapidly settling down.

In the mean time the Yankees, in their confusion, got their boat in the midst of some logs, fixed around the Albemarle for her protection, and being unable to extricate her, the whole party, with the exception of the Captain in command, surrendered.

So far as we can learn none of the crew of the Albemarle suffered more than a few slight wounds. Three of the Yankees are said to have been wounded. They are reported to be all commissioned and non-commissioned officers, volunteers for this undertaking.

The Albemarle went down in a few minutes, but the water being shallow her portholes are not submerged, and though her gundeck is a few inches under water her guns still command the channel up and down. The injury she sustained can be repaired in two or three weeks, including the raising of the vessel.

The foregoing is our own version of this affair, deduced from several different statements. It is a creditable affair to the Yankees, and seems to be quite the reverse to the Confederates. We await further details before we indulge in any strictures.

Running during yesterday had fighting going on at Plymouth, and a Yankee fleet of twenty-four vessels in the river. We have nothing definite or reliable of all this.—State Journal.

FROM THE RICHMOND DISPATCH OF THE 31st ult.

FROM PETERSBURG.

In the battle of Thursday last, our infantry loss, in killed and wounded, will not exceed one hundred and fifty. In prisoners we lost between three and four hundred. In the cavalry, our loss was not very severe, as General Hampton's main attack was made upon the Federal rear. Gen. Hampton, however, had one son killed and another severely wounded.

Immediately after the cessation of hostilities on Thursday night, the enemy commenced to withdraw his forces in the direction of his fortifications on the Virginia and Squand Level roads, and by 2 o'clock Friday morning had entirely disappeared from the plankroad, with the exception of a small force left there to keep up an appearance of his presence in our front.

As soon as this was discovered, a brigade of our troops was ordered to advance and feel the enemy's position; and meeting with such slight resistance, they pushed forward, only to ascertain that the enemy had gone. Some 250 additional prisoners were taken here. Some 300 Federal dead were found unburied on Thursday's field, and about 200 hundred of his wounded, too much disabled to be removed. Fifteen hundred stands of small arms were gathered up, with a number of limbers, caissons, wagons, etc., which the enemy had abandoned, showing that his retreat was hurried. It is probable that many wounded were carried in ambulances.

The enemy had fallen back to his original position, and we have re-established our former lines.

During the fight of Thursday, three bands of colored men were captured by Mahone's old brigade, viz: One by Robert Hatcher, co. E, 12th Va. regt; one by Sergt. Emmit Richardson, co. K, of the same command; and the third by a member of the 61st Va. regt.

About dark on Thursday night, while the fighting was progressing on our right, a small force of the enemy made a bold dash upon our works on the left and succeeded in capturing a portion of them. They also gained possession of one piece of artillery and took prisoners Lieut. Col. Harrison and 20 or 30 men of the 46th Va. regt.

The Petersburg Express gives the following explanation of the affair:

"The event occurred about the time of relieving pickets. The night was dark and rainy, and the Yankees pickedets requested that firing should cease. The request was acceded to. When our pickets were relieved, the Yankees came in close after them, many representing themselves as deserters, but having their short carbines concealed beneath their overcoats. The ruse was temporarily successful, and had it been undertaken by a larger force, might have resulted disastrously."

The Yankees were driven from our works with the loss of ten or twelve prisoners.

On Friday night, the enemy made a fierce assault upon McRae's line, south of the plankroad, but were repulsed with heavy loss. Only a small portion of our troops were engaged.

On Saturday, all was quiet along the whole line, and all the old lines seem to have been re-established.

FROM THE VICINITY OF MANASSAS GAP RAILROAD.

Additional accounts from this section describe the enemy as reiterating the scenes of the Valley of Virginia—burning both houses and barns, capturing the citizens and forcing them to ride on the railroad cars to prevent Mosby's firing into the trains.

The need not, however, lay this flattering unction to their souls, for Mosby knows very well how to foil them; and, indeed, any one who knows the way and uncompromising partisan, will vouch for it, that Colonel Mosby knew that all who were dear to him were on a train, he would not, on that account, hesitate to attack it, provided he were so sure that the good of his country demanded the sacrifice.

FROM TENNESSEE.

General Vaughn is still at work in Tennessee, and steadily advancing his lines. There are no Yankees on this side of Strawberry Plains. Gilliam, the Federal commander, sent out a party of twenty to watch the movements of Colonel Talmer, commanding General Vaughn's advance guard, when he surprised them and captured the whole squad.

FROM GENERAL HOOD'S ARMY.

There's very little room to doubt that, by this time, General Hood's army is in Tennessee. The latest Northern accounts report it at Gunter's landing, on the Tennessee river, about to cross. It left Gadsden, Alabama, on Saturday, the 22d, and started on the road for the point, thirty miles distant, at which the Yankees announce its arrival. On Friday, the Coosa river was crossed. The transportation quickly followed, and at noon the pontoon was taken up and also hurried forward after the troops.

General Cheatham was quite unwell when he mounted to follow his corps; "but," said he, we are going home now, and I'll strap myself to my saddle before they shall leave me behind." General Beauregard is with General Hood. Every general officer is at his post, and the spirit and morale of the men unbowed. The army received thirty thousand additional blankets before it started.

FROM MISSOURI.

Notwithstanding the blazing telegrams of the Yankee press about the defeat of Price, it is extremely doubtful if there has been any reverse to our arms.

A simple paragraph in a late Baltimore paper says: "It is rumored that Rosecrans has met with a reverse in Missouri."

There is a report abroad in this city that Price, having been joined by his forces from the north side of the Missouri river, had met Rosecrans and defeated him in a general battle, that Shelby and Clarke had taken Kansas City, at the junction of the Missouri and Kansas rivers. This is a strong position, and completely commands the Missouri river.

THE TRANS-MISSISSIPPI.

The news from the Trans-Mississippi is encouraging. General Stand Watie, on the 19th ultimo, captured one of the enemy's posts north of the Arkansas river, with two hundred and fifty wagons and one hundred and twenty prisoners.

General Magruder is in Arkansas, attending to Steele, and Shelby is on the Arkansas line, protecting the communication to Price's rear, and at the same time doing all possible damage to the enemy.

From the Confederate.

LIST OF CASUALTIES.

In the 20th N. C. Regiment, in the engagement near Winchester, September 19th, 1864.

Field and Staff—Killed, none.

Wounded—Adjutant E. S. Moore confusion on the breast, W. H. Higgins, Acting Sergt. Major, in the ankle.

Co. A—Killed, none.

Wounded and captured Sergt. Jesse F. Willford.

Missing, 1st Lieutenant J. D. Irwin and Sergt. J. M. Mendenhall.

Co. B—Killed, none.

Wounded, privates W. H. Baughn in leg, Jerry Kestler left arm, David Bradford ankle.

Wounded and captured, Sergt. D. E. Ellis and private Wm. Kelough.

Co. C—Killed, private R. Thompson.

Wounded, privates C. Freeman left arm and side severe, J. Hinson leg, Cain Strickland left arm severe.

Wounded and captured, Sergt. M. D. Ezor, private J. W. Riddick.

Missing, privates A. Reynolds and G. Ward.

Co. D—Killed, none.

Wounded, privates Eli Burwell flesh wound in left thigh, N. M. Skipper right arm.

Co. E—Killed, none.

Wounded, corp. W. R. Benton on the scalp, privates R. D. Carr in arm, A. Outlaw in arm, H. W. Rogers in left arm and breast, J. T. Watkins slight in foot.

Wounded and captured, private J. Brock.

Missing, J. Bunnham.

Co. F—Killed, none.

Wounded 1st Lieut. A. F. Lawhorn severe in neck, privates W. Hall severe in knee, O. Sessions in shoulder, J. Sikes severe in thigh, D. Tanner in breast.

Wounded and captured, privates N. C. Herring and J. Wilson.

Missing, Sergt. W. D. Highsmith.

Co. G—Killed, none.

Wounded, none.

Missing, private J. Long.

Co. H—Killed, none.

Wounded, privates George McCleeny in thigh, J. J. Cox severe in shoulder, J. R. Godwin in arm.

Wounded and captured, privates W. Hinson and S. J. Murphy.

Missing, Lieut. James Ingram and private S. Wilson.

Co. I—Killed, none.

Wounded, corp. J. L. Daniels severe in neck, privates D. M. Maxwell severe in bowels, Wm. Holland severe in side, M. Royals wound not known.

Co. K—Killed, none.

Wounded, Capt. W. G. Baldwin flesh in thigh, private John Bradsher flesh wound in right arm, J. E. Kelly right arm amputated.

Wounded and captured, private Allegood Boswell and Allen Suggs.

Missing, corp. W. H. Harrison and private Patrick Stephens.

RECAPITULATION.—Killed, enlisted men 1; wounded, officers 3, en. men 27.—Wounded and captured, en. men 12.—Missing, officers 2, en. men 9.

E. S. MOORE, Adj't 20th N. C. T.

List of Casualties in the 14th N. C. Troops, in the battle of Strasburg, Oct. 19.

Head Qrs 14th N. C. Troops, October 25, 1864.

Messrs. Editors:—Please publish the following for the information of relatives and friends.

Co. A—Killed, none.

Wounded, Sergt. James W. Newsom in bowels mortally, since dead, corp. Jesse F. Newsom in face severely.

Co. B—Killed, none.

Wounded, private Z. Russell finger amputated.

Co. C—Killed, none.

Wounded, privates G. W. McAuley in thigh severe, J. H. D. Saunders in thigh severe, A. A. Waddill in shoulder severe, John Throgsdill leg.

Missing, privates H. B. Saunders and J. D. Mask.

Co. D—Killed, none.

Wounded, Capt. Wm. M. Weir in bowels mortally, private H. M. Dameron in bowels, mortally; Sergt. J. F. Gorth in left leg severe.

Missing, corp. J. F. Long and private N. Bauds.

Co. E—Killed, none.

Wounded, private Jno. Cook in left hip, John N. Hubbard in left leg, amputated; A. Messer in mouth severe H. Polard in leg severe.

Missing, private H. C. Lassiter.

Co. F—Killed, none.

Wounded, Sergt. A. H. Jones right thigh broken and captured; Sergt. N. B. Westall in right shoulder slight, privates J. R. Patilla in left hip severe, D. N. Phelia in finger amputated.

GENERAL SHEWING THE CONDITION OF THE BANK

Dr.

*Notes discounted and suspended debt, \$1,455,526.21

State N. C. and C. S. A. Bonds, 1,948,211

Bills of exchange, 563,138.29

Real estate, 80,103.23

Due from other banks, 83,286.56

Notes various banks and notes C. S. A., 138,794

Specie, 444,402.23

Bills and checks in transitu, 6,260.60

\$4,719,782.18

*Of these amounts there is due by directors, \$9,624.16

by stockholders not directors, 48,408.55